Jan Niessen, Yongmi Schibel and Cressida Thompson (eds.)

Current Immigration Debates in Europe: A Publication of the European Migration Dialogue

Poland

Krystyna Iglicka, Piotr Kaźmierkiewicz and Agnieszka Weinar
for

CSM (Center for International Relations) and

ISP (Institute for Public Affairs)

September 2005

The Migration Policy Group (MPG) is an independent organisation committed to policy development on migration and mobility, and diversity and anti-discrimination by facilitating the exchange between stakeholders from all sectors of society, with the aim of contributing to innovative and effective responses to the challenges posed by migration and diversity.

This report is part of a series of 16 country reports prepared as a product of the European Migration Dialogue (EMD). The EMD is a partnership of key civil society organisations dedicated to linking the national and European debates on immigration and integration. It is supported by the European Commission, Directorate-General Justice, Freedom and Security, under the INTI funding programme.

The individual reports on Austria, Belgium, the Czech Republic, Denmark, Finland, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Poland, Portugal, Spain, Switzerland, and the UK are available from MPG's website, together with a preface and introduction. See Jan Niessen, Yongmi Schibel and Cressida Thompson (eds.), Current Immigration Debates in Europe: A Publication of the European Migration Dialogue, MPG/Brussels, September 2005, ISBN 2-930399-18-X.

Brussels/Warsaw, September 2005

© Migration Policy Group

Poland

Krystyna Iglicka, Piotr Kaźmierkiewicz and Agnieszka Weinar

1.1 The immigration debate

Overview

There has not yet been a single and comprehensive debate on the policy on the entry and residence of foreign nationals in Poland. Instead, there have been several debates in various fora, dealing with different aspects of the debate. The EU accession process has been the main driving force behind policy development. Although immigration to Poland is increasing, the debate continues to be either couched in technical issues associated with transposing EU legislation or it is seen as part of broader, disparate policies (such as employment).

In the first half of the 1990s, Poland's policies on managing migration flows concentrated on the issues of entry, covering four basic areas: (1) establishing border controls on all frontiers, (2) entry into the pan-European system of controlling transit migration (entering into readmission agreements with the Schengen and neighbouring states), (3) constructing a rudimentary legal and institutional asylum framework, and (4) facilitating cross-border traffic with the neighbours (maintaining non-visa regimes with all European states, including the Commonwealth of Independent States (CIS)). Those four areas could be placed within a broader context of two complementary, though at times conflicting, discourses that emerged at the time, border control and human rights, leading to the polarisation of the emerging stakeholders in the process.

Border control has been guided by concepts of security, both in national and international dimensions, and the Ministry of Interior and the Border Guards have drawn support for restrictive legal measures both from recurring domestic concerns[1] and from the experience of co-operation with partners from the EU, especially Germany.[2] Although asylum matters were the responsibility of the Ministry of Interior, the Border Guards have played an important role in the implementation of asylum procedures.

However, as indicated above, the security agenda has been mediated (and softened) through the increasing presence of non-governmental organisations. An office for the representative of United Nations High Commissioner for Refugees (UNHCR) was established in Poland as a result of the country's accession to the 1951 Geneva Convention. The Helsinki Foundation for Human Rights has also become active, involving itself in legal proceedings in the courts, including the Supreme Administrative Court, where they have held

[1] According to the polls, 41 per cent of respondents favoured restrictions to the current rules of entry, that is, more thorough controls on travellers' supplementary documentation (in particular letters of invitation from Polish nationals), 42 per cent opted for the introduction of visa requirements for the citizens of the former USSR, and 71 per cent declared that the imposition of entry visas for them would improve security. The majority of the Polish respondents (73 per cent) viewed labour migration to Poland in a negative way due to: increased competition on the labour market (lower salaries and / or higher unemployment), currency outflow, non-payment of taxes and breaches of order and public security. (Based on the polls of 4-6 November 1994 in Warsaw, *Kiepsko ich tolerujemy (We treat them badly),* Gazeta Wyborcza, 9.11.1994, in: S. Łodziński, *Migracje zagraniczne w Polsce – rozmiary, struktura, problemy prawne i społeczne (International migration in Poland – scope, structure, legal and social problems)*, p. 35.

[2] On 29 March 1991, Poland signed an agreement on visa-free movement with the Schengen countries, which granted the right of free entry for tourist purposes to the citizens of both parties to the agreement. On 7 May 1993, Poland and Germany concluded an agreement on cooperation in combatting the effects of migratory movements. The agreement stated that Poland should receive those third-country asylum-seekers who had arrived in Germany illegally from the territory of Poland (Poland was declared to be a "safe third country"). Poland also signed agreements of this kind with the Czech Republic, Slovakia, Romania, Bulgaria and Ukraine in the spring and summer of 1993. Similar agreements were concluded between Poland and all the neighbouring states, except Belarus and the Russian Federation, and a few others.

Ministry officials accountable for their decisions. The other avenue used to mediate the security agenda has been through visa policy, the responsibility for which was originally outside the Interior Ministry's scope, resting instead with the Foreign Ministry (tourist and transit visas) or territorial administration (work and residence permits).

The issues of visa-free entry for the nationals of all neighbouring states, and tolerance for the unregistered economic activities of most travellers officially declaring 'tourism' as reason for entry, have been upheld by all sides of government, leading to the formation of a durable inter-party consensus, which has survived shifts in governing coalitions and changing appointments of the heads of Polish diplomacy.

EU accession as the external catalyst for legislative change

The EU accession process has provided perhaps the most direct incentive for legislative change in recent years. However, this process has not taken place without challenges. Indeed, the negotiation process revealed both the extent of the challenge to sketch a 'road map' towards the effective implementation of EU laws in the very recent national context and the gap between the expectations of the Commission and the Member States on the one hand and of the Polish government agencies and social partners on the other. Within the negotiations in the area of Justice and Home Affairs (JHA), Poland resolved to implement the JHA acquis in full, including the Schengen acquis, by the time of accession without asking for any transition periods or derogations.[3] Specifically, Poland accepted in full the acquis in the sub-areas of 'migration, admission and readmission', 'customs co-operation' as well as in 'asylum' and 'combating terrorism', where legislative and institutional work was still in progress. The Schengen *acquis* was formally incorporated into the Polish law prior to EU accession, but failed to finalise the full implementation, which is now not expected to be complete until 2007. This is largely because Poland is awaiting a positive assessment of the state of border infrastructure and operational capacity of all the institutions involved. The Schengen Action Plan, adopted during the accession negotiations (and regularly updated during this period), outlines the steps taken to attain Poland's integration into the Schengen system. The text is available at: www.mswia.gov.pl/pdf/sap.pdf

The most important area of disagreement in the negotiations related to the visa policy for CIS neighbours, where Poland opted for the gradual introduction of a visa requirement to be in force prior to the date of accession. The government made an initial commitment to comply with the Regulation of the Council of Ministers of 11 January 2000 on the adjustment of the state visa policy to EU standards by the end of 2002. However, in light of expected serious socio-economic consequences of the introduction of visas for the citizens of three neighbouring states, the government announced a change to the schedule which would defer the move as long as possible, leaving the issue of the residents of Belarus, Russia and Ukraine to be tackled last. The Polish stance differed significantly from that of its southern neighbours, the Czech Republic and Slovakia, which had already imposed more restrictive regimes in 2000. The disagreement over the visa issue reflected a significant difference in the manner in which the EU and its Member States on the one hand, and Poland on the other, viewed the question of travel for the Belarusians, Russians and Ukrainians across the future external border. One problem was that Polish legislation lacked the concept of 'third-country nationals', referring instead to all persons who were not Polish citizens as aliens, and the conditions for entry of foreigners had been differentiated on the grounds of foreign policy and regulated by bilateral agreements.

Even more crucial to the future position of Poland within the EU debate on managing migration was the profound gap in the manner in which the national agencies and the

[3] Poland's negotiation position in the area of Justice and Home Affairs, adopted by the Council of Ministers of the Republic of Poland, 5 October 1999, p. 1 (www.negocjacje.gov.pl/neg/stne/sten24en.pdf)

European Commission viewed the development of the JHA *acquis*. The initial Polish negotiation position assumed that Poland would only have to introduce the *acquis* as it existed on 1 May 1999 by the expected date of accession (1 January 2003). However, the EU highlighted additional obligations, which included the changes to the JHA *acquis* following the Amsterdam Treaty and subsequent developments of the EU legislation.[4] Poland significantly underestimated both the length of the negotiations and scope of the obligations involved in the accession process. Officials had expected the negotiations of the chapter to be a relatively quick and technical exercise, consisting of incorporating the *acquis* article by article.[5] However, hopes for completing the harmonisation of the national legislation to the *acquis* in a short time proved unrealistic. Early adjustments to the modest, initial EU legal framework presented at the outset of the negotiations soon led to additional changes. In fact the framework for harmonisation evolved continuously throughout the process as it was forced to adapt and incorporate newer instruments that were tabled later in the negotiation process – instruments that were still being adopted by the EU15 members. Poland was the last of the ten candidates to close the negotiations in this area, provisionally, on 30 July 2002, only to conclude them finally only at the Copenhagen Summit on 13 December 2002.[6]

Put simply, the EU imposed on Poland the obligation to incorporate not only the letter but also the substance of the *acquis* so as to ensure working co-operation with the administrative systems and operational services of the Member States in Justice and Home Affairs. The government was obliged to adopt all the international JHA conventions, which would have been ratified by EU Member States by the time of accession. The EU made it clear that any international agreements, which were incompatible with the membership obligations, should be terminated. The latter stipulation was particularly relevant for Poland in the case of visa-free travel arrangements with its eastern neighbours. The government was asked to provide the timetable for the termination of the visa-free agreements with its neighbours, and the effectiveness of the Polish consular services in controlling immigration from third countries was to be closely monitored.

Further amendments to the Aliens Law and other national acts in the JHA realm were deemed to be necessary to ensure the prevention of illegal immigration, especially for employment purposes, and to align the admission of third-country students and family reunification with EU practice. Legal solutions, training and improved co-ordination between border guards were essential for the effective control of the future external EU border. These conditions included systematic controls of all persons crossing the border and effective surveillance of the border between authorised crossing points.[7] Polish legislation was also expected to comply with the EU *acquis* on the general format of visas and with Common Consular Instruction, outlining a unified formal procedure for administering Schengen-format visas. Legislative changes were also needed to incorporate elements of a working asylum system through the implementation of the 1990 Dublin Convention, which outlined an accelerated procedure of dealing with manifestly unfounded applications, the conclusion of readmission agreements with major countries of origin, and measures to be taken towards applicants who have failed to present their applications within a certain time frame. Co-ordination between institutions responsible for implementation was essential, and throughout the process, the EU monitored the progress of the creation of a single Polish Office for Aliens and Refugees. The annual reports of the European Commission for 1999 and 2000 on the

[4] European Union Common Position, Brussels, 24 May 2000, Conference on Accession to the European Union, CONF-PL 28/00.

[5] Interviews on the perception of accession negotiations in the JHA area were held by the Institute of Public Affairs at the end of 2003 at Departments of International Cooperation of Ministries of Interior and of Justice as well as at the Office of Repatriation and Aliens.

[6] All the dates in the negotiation process can be found on the site: http://www.negocjacje.gov.pl

[7] Poland was advised to concentrate its efforts in strengthening border controls on the frontier with the Russian Federation, Belarus and Ukraine as well as at airports, seaports and on the maritime borders.

progress of Poland on the path to EU membership reaffirmed its recommendation to seal the national borders and tighten the regulations on the entry of third-country nationals.

Strong pressure from the EU to adopt specific solutions throughout the accession process enhanced the technocratic nature of legislative and institutional changes and placed the Ministry of Interior in the driver's seat. It is important to recognise that the work on the new law on aliens, which replaced the (then current) 1963 bill, was a product of the Ministry, working with the Commission, and without any real involvement of the Parliament. A government proposal prepared by the Ministry of Internal Affairs and the administration was discussed, but no other proposals were tabled. The legislative work was carried out by experts and committee members (between November 1995 to June 1997), and there were no major points of contention among the party parliamentary clubs or between the Parliament and the government in the first reading.[8] Indeed, members of Parliament, including representatives from all political factions praised the proposal without suggesting alternative solutions. Throughout the plenary debate, the prospective obligations of EU membership were acknowledged and found to be consistent with the security needs not only of the Union as a whole but also of the Polish state.[9] The policy learning aspect was also appreciated, as the bill was considered to open the way for new solutions, to the adaptation of the law to Poland's new political, economic and social reality and to the European standards.

Further amendments to the Act on Aliens (three bills were passed: in 1997, 2001 and 2003) were due in the process of harmonising Polish legislation to the *acquis communautaire*. As the prospect of Polish accession to the EU became clearer, the harmonisation of Polish law with the *acquis* became a guiding objective for most of the amendments. Since the EU allowed no derogations in the negotiation area of Justice and Home Affairs, and Poland concurred, questioning specific clauses of the *acquis* would only mean a delay in the country's EU membership. The "Rationale for the Amendment" outlined by the Ministry of Interior referred to the obligations which Poland had adopted in the course of accession negotiations that were spelled out in the "National Programme for the Membership in the European Union" and the "Polish Negotiation Position in the Field of Justice and Home Affairs". The Ministry's proposals were included in the wake of the consultations with the Union, which resulted in the closer approximation of the Polish legislation to the *acquis communautaire.* Some of the new measures included the introduction of the institution of temporary protection, a provision for a "fast track" in case of evidently unsubstantiated cases of refugee applications, and the correction of judiciary procedures in case of detained foreigners. The most weighty consequence, however, was the establishment of a coordinating government agency to manage activities in the field of migration and residence of foreigners in Poland, titled the Office for Repatriation and Foreigners (www.uric.gov.pl).

The European Commission, the main actor of the accession negotiations, thus became an engine of change in the Polish law on aliens.

Domestic dimension of the debate in pre-accession period

In the pre-accession period, discourse on the national migration policy failed to stir a broad political or media debate. Indeed, the status of foreigners in Poland was the object of few controversies, which meant that domestic issues did not have a major impact on the debate. Instead, as outlined above, amendments focused on accession requirements.

[8] Act on Aliens, 1st reading, 65th session, 3rd day, 24 November 1995, Sejm of the 2nd term.
[9] State security was the objective of the amendment, which made issue of the settlement permit conditional upon consultation with the Office of State Protection (Art. 82 in the final version of the law).

While relatively insignificant, some domestic concerns were raised in the course of the parliamentary debate, generating some lines of contention. On the one hand, access to the territory was to be extended to groups to which Poland had owed the debt of either explicit legal obligation (asylum seekers) or bond of ethnicity (the diaspora). The Helsinki Foundation for Human Rights and the Office of the UNHCR criticised the state for having a potential conflict of interest in these areas, considering the higher standards that Poland had adopted by acceding to the 1951 Geneva Convention and the European Convention on Human Rights.[10] UNHCR found the first comprehensive bill on aliens (passed in 1997) to draw an insufficiently clear distinction between foreigners in general on the one hand, and refugees and asylum seekers as a group in need of particular protection, on the other.[11] *The Polish Community*, the influential association concerned with the Polish diaspora affairs, stressed in turn the need for laying down the principles of repatriation, the procedure for acquiring Polish citizenship and the rights granted on the basis of national origin.[12] In the course of the second reading of the bill, the human rights theme was further developed and new clauses on repatriation were introduced. In essence, the second reading moved the debate toward social issues thanks to the involvement of non-governmental and international organisations.[13]

Although amendments relating to labour immigration were not introduced, the link between the high national unemployment rate and the anxiety over rising illegal immigration did appear in the debate. The law did regulate the legitimate ways for foreign employment in Poland; however, the members of parliament saw the bill primarily in terms of combating illegal immigration and illegal employment. The proposal was therefore considered welcome for domestic reasons, as it was seen as providing an opportunity for protecting the Polish labour market from "being flooded by illegal labour". At the same time, the representatives of the liberal Freedom Union party came up with a proposal not to treat all employment categories equally. Preferential clauses for potential investors were justified in their view in terms of Poland's long-term economic interests. The requirement to renew a work permit annually was also seen to run contrary to the country's economic interest.

The passage of the new Act on Aliens of 26 June 1997,[14] which introduced more restrictive rules for the entry and residence of foreigners in the country, employed several mechanisms to combat illegal immigration and put an end to the presence of unwanted aliens. These measures were adopted along the lines of the *acquis* and the practices of most EU states. Its implementation spurred the debate on one of the key categories of foreigners entering Poland: the shuttle traders in the eastern borderlands of the country. Importantly, this category hardly featured in the parliamentary debate at this time, as the impact of stricter conditions for the entry into Poland for personal or tourist purposes for less than three months for citizens of states without visa requirement was recognised only later.[15] The set of

---

[10] A. Rutkiewicz, I. Rzeplińska, *Opinia dotycząca ustawy o cudzoziemcach (Opinion on the Act on Aliens)*, expert opinion commissioned by the Parliamentary Office of Studies and Expert Opinions, November 1995, E – 64.

[11] While UNHCR conceded that Poland had the right to control migration, it found the bill deficient in terms of guarantees of a full, fair and effective procedure for granting the status, and upholding the appeal mechanisms for de facto refugees and stateless persons. They were also critical of the absence of the right to family reunification, in: *Comments of the UNHCR on the Bill Proposal of the Act on Aliens)*, November 1995, UNHCR Liaison Office, Warsaw, p. 1.

[12] Minutes of the Session of the Parliamentary Committee of Administration and Internal Affairs of 6 May 1997, no. 152.

[13] Act on Aliens, 2nd reading, 108th session, 1st day, 4 June 1997, Sejm of the 2nd term.

[14] The law went into force on 27 December 1997.

[15] According to the executive regulations of the Ministry of Interior, the personal invitations and other documents, such as those confirming the transport reservations and accommodation, representing the basis for entry for, *inter alia*, the citizens of the former USSR on the basis of the Polish-Soviet agreement of 1979, would have to be officially certified at a notary's office. Moreover, travellers were required to present a minimum amount of *per diem* funds, sufficient to cover the cost of travel, residence and departure. The Border Guards' competence was extended to include the verification of the proper registration of the invitations and possession of the required amount of funds.

innocent technical measures, transposed from the EU practice, turned out to have a depressing effect on the volume of cross-border 'open-air market' trade in the first half of 1998, which was compounded by the Russian financial crisis.[16] Criticism of this policy was voiced in an extensive press debate, which for the first time raised the issue of broader socio-economic effects of introducing the EU regulations in the borderlands.[17] The Parliament took note of the larger debate and several Members of Parliament (especially those representing the eastern borderlands of Poland) went on to criticise the government for the hasty and uncoordinated introduction of new requirements without implementing a proper information campaign to target cross-border traders.

The follow-up to the passage of the Aliens Law of 1997 thus had a series of important consequences for the shape of policy-making process. The Ministry of Interior learned that any changes in the procedures of the CIS travellers' access to the Polish territory had ramifications far beyond the technical matter of EU harmonisation. The Ministry of Foreign Affairs proved to be an important institution for assessing the impact on bilateral relations and the Ministry of Economy needed to be consulted on economic consequences. The government as a whole recognised that visa policy modifications needed to go through extensive inter-ministerial consultations and that the matters would have to be settled at the level of the Council of Ministers. Criticisms about the lack of information on policy details available to relevant social partners and target stakeholders were also acknowledged. As a result, Parliamentary committees became more open to independent expertise. At the same time they also commissioned an increasing number of internal studies on the topics of foreigners, migration and minorities.[18]

The political debate at the turn of 2000-2001 developed along the lines of the conceptual categories established between 1995-1997, while highlighting several broader socio-economic concerns. The legislative work on the amendments to the law on aliens, which began in 2000, was therefore carried out in a different political environment and the debate had to focus on other issues accordingly. The Ministry of Interior's EU-driven approach prevailed. The necessity of adjusting the Polish legislation to the Union *acquis* eliminated any serious controversy.[19]

The discourse on security was softened in the debate on the state policy in the field during the amendments in 2001-2003 by incorporating the category of human rights, which was raised mainly in the context of refugees and legitimisation of aliens' stay in Poland. The Helsinki Foundation for Human Rights and UNHCR have paid particular attention to the

[16] In the wake of the financial turmoil in Southeast Asia, the Russian rouble was sharply devalued and a climate of uncertainty about all emerging markets, including those of Central and Eastern Europe set in, leading to temporary destabilization of stock and currency markets of the region.

[17] Key articles from the press debate were collected in a study by the Parliamentary Office for Studies and Expertises of the Lower House of the Polish Parliament: Dyskusja prasowa na temat skutków wejścia w życie nowej ustawy o cudzoziemcach, grudzień 1997-maj 1998 (Press debate on the consequences of entry into force of the new Act on Aliens, December 1997-May 1998, *S. Łodziński*, Materials and Documents No. 247. July 1998.

[18] Cf. the studies by S. Łodziński of the Parliamentary Office for Studies and Expertises in the Sejm (Lower House of Polish Parliament), Problems of the Polish migration policy in 1989-1998 and the new Law on Aliens, Report No. 147 (July 1998) [http://biurose.sejm.gov.pl/teksty/r-147.htm]; Polish residents' opinions and attitudes towards migration and foreigners in light of public opinion, January 2002 (in Polish); Protection of persons belonging to national and ethnic minorities – a European perspective, September 2002 (in Polish).

[19] It is interesting to note that the government commissioned the Institute of Public Affairs (ISP) to prepare an analytical study for the sitting of the Senate Committee for Foreign Relations and European Integration on the subject "Poland and the other applicant countries vis-à-vis the Schengen *acquis* obligations"K. Iglicka, *Trendy w migracjach do Polski po 1989 roku w świetle rozszerzenia Unii Europejskiej (Trends in migrations into Poland since 1989 in view of the enlargement of the European Union)*, in: *Polska droga do Schengen,* Opinie ekspertów*,* ISP, Warszawa 2001.

issues of refugees' rights and family reunification. Amendments, such as the temporary protection option, came three years after the policy was initially implemented.[20]

The immediate prospect of EU accession on the one hand made the government proposals easily defensible, but on the other forced a re-think of security issues in terms of the security of the community – a broader concern, which went beyond national security.

The second reading of the draft amendment held in 2001 revealed the first objections from political parties. The then opposition MPs – from the Democratic Left Alliance (SLD) and the Polish Peasant Party (PSL) were critical about what they called a missing concept and political will to develop a comprehensive migration policy for Poland. Significantly, in the course of the debate, several other domestic issues crystallised, pointing to the directions of a broader socio-economic debate on migration in Poland as a new EU member state:

- *Repatriation* – described by both the government and MPs as the long-awaited return of compatriots to their mother country. Participants in this debate did not treat repatriates as aliens.
- *Protection of national interest* – in the form of protecting borders, society and the country against the negative consequences of migration with a reservation that the proposals should not make the entry into Poland more difficult for legitimate visitors and immigrants.
- *Unemployment – illegal migration* – the representatives of the Ministry of Interior and MPs have acted on the assumption that the protection of the national labour market should limit the access of foreigners to the market. Such proposals were raised mainly in case of the unqualified workers ("the influx of cheap labour").
- *Legitimate income-motivated immigration* – covering a broad white-collar segment (including artists, entrepreneurs, corporate managers and athletes) was seen as beneficial to the country's economy as an important source of new skills and accorded high social status. However, there were no practical measures to attract these desirable immigrants. Essentially, the discourse failed to cover the issues of labour migration.

The extension of the national debate on the eve of accession to broader issues resulted in the identification of several categories of foreigners in Poland:

1) *Refugees* – treated as a group of foreigners under particular protection, who enjoy the rights specified in the Geneva Convention and the New York Protocol, both ratified by Poland.

2) *Repatriates* – considered not so much as foreigners (although they were foreigners in formal terms), but as persons to whom the Polish state bears a special responsibility, evident in the push to facilitate their return to Poland and their re-integration into Polish society. However, such objectives could only be partially met, due to the dire condition of public finances.

3) *Illegal immigrants* – The state administration is of the opinion that illegal immigration should be combated effectively, not only at the border but also inside Poland (hence, extended powers of the Border Guards to control the legality of residence). Some non-governmental organisations and state institutions (such as the Ombudsman) have called for a regularisation of foreigners who have resided in Poland for a significant period of time and have established permanent links to the country.

4) *Economic migrants* – The presence of highly-qualified migrants and potential investors is viewed favourably in Poland, however this debate has been limited to assertions rather than

[20] I. Rzeplińska, H. Rubinstein, E. Zienkiewicz, *Opinia o ustawie o zmianie ustawy o cudzoziemcach oraz o zmianie niektórych innych ustaw*, odnosząca się do projektu ustawy z 23.03.2000 *(Opinion on the Bill on the Amendment to the Act on Aliens and on the Amendments to Some Other Acts)*, Zespół Pomocy Prawnej Helsińskiej Fundacji Praw Człowieka, 24.05.2000 r.

substantive measures. Economic migrants are required to possess a work permit, however, there are some exceptions. The authorities have declared their intention to combat illegal employment, but in reality, the 'informal economy' is quite widespread. What is more, there is significant public acceptance of the 'informal economy' in certain areas, such as care given to children and the elderly, construction, agriculture.

Although the last major amendment of the Aliens Act prior to accession, which was passed in June 2003,[21] was regarded primarily as part of the harmonisation process with the *acquis,* the parliamentary debate reinforced the domestic issues and categories of foreigners, present in earlier deliberations. Three groups of foreigners were identified as being in need of specific policy measures prior to accession: spouses of foreigners, students and unaccompanied minors. The first two groups' rights have been heavily promoted by social actors, mainly the Helsinki Foundation and the Ombudsman. Their arguments favour long-term residence for these groups. Apart from the usual human rights arguments, they spoke about the idea of integration – people who studied in Poland or who have family ties make better immigrants. Unaccompanied minor legislation was introduced to Polish law on advice from the UNHCR, who had lobbied for the measure on humanitarian grounds.[22]

The government also took opportunity to address the burning issue of irregular migrants through a (somewhat limited) regularisation. The first regularisation was implemented with the explicit objective of settling the status of those foreigners who had already demonstrated the existence of de facto ties with the country, but who had not established ongoing legal residence in Poland. The regularisation campaign was also aimed giving migrants from the CIS region an opportunity to adjust their status in light of the new requirements.

The regularisation campaign lasted from 1 September to 31 December 2003. All foreigners, who had lived continuously in Poland for at least six years, and could prove housing and financial means to cover necessary expenses, or a work promise (or contact), were entitled to apply for a one-year temporary residence permit, regardless of their status, which would enable them to enter a regular procedure and apply for further temporary permits. The whole process was aimed primarily at addressing the real and pressing need to accommodate whole families of Armenians, for example, living in Poland with an ambiguous status for several years. The arguments for the regularisation indicated that it was mainly an acknowledgment of the status quo, designed to facilitate the ability of established migrants (whose children attend school and who work or run a business) to emerge from the grey zone (the informal economy). It was also designed to press the Ukrainian shuttling migrants to make the decision to leave without being noted in the *register of unwanted foreigners*. The regularisation program found no opponents and was unanimously accepted by Parliament, and was later extended until November 2004.[23]

Visa policy was the only aspect of the parliamentary debate that managed to attract the attention of a broader segment of the Polish political scene. The new visa regime for the CIS countries sparked the most controversy. The main source of contention was the manner of the implementation and the after-effects of such a measure. The debate was most animated in early 2002 when several non-governmental organisations and independent experts offered a variety of approaches through opinion pieces, studies and reports. [24]

---

[21] Aliens Act of 13 June 2003 (Dz.U. 2003 No 128 item 1175) Ministry of Internal Affairs and Administration regulation (Rozporządzenie Ministra Spraw Wewnętrznych i Administracji, Dz.U. 2003. No 147 item 1435) amended Administrative Code (Dz.U. 2000. No 98 item.1071)

[22] Agnieszka Weinar's interviews with social partners during the Aliens Acts of 2003 parliamentary proceedings in May – June 2003.

[23] On the outcome and assessment of the programme, see the section on integration policy debates.

[24] See e.g.: Z. Najder, *Polsko-ukraińskie asymetrie (Polish-Ukrainian Asymmetries)*, Rzeczpospolita, 08.11.2001; M. Mazur-Rafał, *Głos za wprowadzeniem wiz (Voice in Favour of Visa Regime)*, Rzeczpospolita, 18.01.2002; B. Cichocki, *Czas pozbawić sąsiadów złudzeń. W kontaktach ze Wschodem najważniejszy jest interes Polski (Time*

Supporters of the new visa regime generally referred to the *state interest*, security arguments and fiscal benefits. For those supporters, visas represented an instrument of control and a greater ability to select people allowed into the Polish territory. They admitted that it was not always an ideal instrument. However, they maintained that it would not restrict their (CIS citizens) right to cross the eastern border into Poland. Instead, it should be seen as an indispensable tool of managing the traffic of people. Their opponents rebuffed the latter argument, claiming that in view of the existing condition of border infrastructure, it would be in practice very difficult to freely cross the border into Poland. They believed and still do that the Polish people have a *sui generis* moral duty to support the process of democracy in the East and that the opportunity of travel and observation of the transition effects as exemplified by Poland is an indispensable instrument of this support. Any rationing of that opportunity would, in their view, slow down the process of democracy and restrict the rights of a substantial Polish minority in those countries. The debate also provided economic arguments (such as the erosion of trade contacts), social arguments (trade slump depriving the poor border communities of their only source of income), fiscal arguments (combating the grey zone, or the 'informal economy') and political arguments (implementation of the *acquis* as the sine qua non of the accession).

Socio-economic aspects of immigration policies

The period leading up to the accession could be seen largely as a complex technical exercise in which the agenda was dominated by the Ministry of Interior's concerns over legal and institutional requirements of adoption of the JHA *acquis*, exemplified by the focus on security measures and border control procedures in the debates on immigration. However, with the establishment of the Office on Repatriation and Aliens as a central government agency to deal with asylum, entry and residence of foreigners, the long-standing experts' argument to work out a broader concept of state migration policy received a boost. The Office initiated work on a relevant government paper in November 2002 and experts from other ministries and associated bodies; research institutes, academia and the non-governmental sector were all invited to participate. Unfortunately however, the impact remains limited.

On the one hand, the forum has demonstrated that the expert debate on migration issues no longer revolves around security to the extent that it did in the 1990s. Since then precedence has been given to questions about the labour market, which is considered not only in terms of the protection of the Polish labour market (see the clause on the priority accorded to Polish citizens in the access to job offers) but increasingly in view of the benefits which the foreigners could bring to the market (selection of foreigners with rare qualifications or about to invest in Poland)[25]. On the other hand, however, the results of the work have not been made public so far, and have thus had limited impact on the broader domestic debate.

Arguments based on the social and economic policies appeared first in the course of the debate over the necessity and form of introducing a visa requirement for the nationals of Russia, Ukraine and Belarus. Some controversy arose over the assessment of the economic effects of Poland's implementation of the Schengen *acquis.* The issues raised concentrated on the possible weakening of cross-border and bazaar trade, the collapse of the export agreements with eastern markets, and the drop in revenue from the trade-related services, which could eliminate what is often a sole source of income for the residents of the Polish

---

to Be Blunt to Neighbours. Poland's Interest is Overriding in Contacts with the East), Rzeczpospolita, 14.02.2002, J. Boratyński, *Nie odgradzajmy się od sąsiadów ze Wschodu (Let Us Not Build Fences Against Neighbours to the East)* Rzeczpospolita, 07.02.2002.

[25] Based on the internal minutes from the sessions.

eastern borderlands. Nonetheless, long-term advantages of this measure were stressed.[26] It is still important to note that until recently, immigration had not been discussed in terms of social or economic policy, nor was it perceived as an option within these policies. The high level of unemployment was also a key objective.

At the same time, the presence of foreigners in Poland is still a relatively new social phenomenon, and constituting just a small fraction of the population, foreigners are not perceived as a burning social issue.

The employment of foreigners does not appear as a separate issue in the first National Action Plan for Employment, accepted in September 2004,[27] which builds on the earlier National Strategy of Employment Growth and Human Resource Development.[28] Overcoming the social exclusion of refugees is treated briefly in the context of other disadvantaged social groups, but unlike in the cases of women or specific age categories, no policy proposals are offered. The lack of references to the presence or desirability of foreigners *per se* on the Polish labour market reflects the Plan's preoccupation with persisting negative trends in the domestic workforce: on the one hand, the rapid expansion of the working-age population puts pressure on the national job market which still displays limited absorption capacity; on the other hand, the existing labour pool is under utilized given continued high unemployment (most notably in the youth category) and declining participation rate (especially among the over-50-year-olds), which is likely to strain the social-security system. The document overlooks the demand for foreign labour in the short term as it posits as the main objective, the reduction of the unemployment rate from nearly 19 to 15 per cent and assumes that raising the participation of domestic workforce in the legal market and improving the skills in the country's population would be key elements of the national strategy. In general, the Plan does not foresee the role of foreigners in filling the gaps on the national labour market.

However, several of the document's recommendations on the ways in which the Polish labour market could promote entrepreneurship and tackle the informal economy, two initiatives that are relevant to foreign workforce. Some studies point out that low-cost foreign workers are unlikely to legalise their employment in Poland for the same reasons as their Polish counterparts (also in the informal economy).[29] High social-security charges would undercut the competitiveness of both groups in their particular niches. The Plan refers to existing and planned policies easing the procedures for establishing small and medium enterprises, and foresees support for micro-businesses (of fewer than nine persons). This could indirectly stimulate the demand for foreign labour, which already finds employment primarily in very small businesses (especially those established by the Polish nationals of Vietnamese origin, who generally employ their ethnic compatriots). Self-employment, which is to be encouraged through reductions in social-security charges and facilitated access to bank credits, could in turn be of interest to foreign high-skilled professionals currently facing barriers to salaried employment. In fact, some initiatives, which appear to target Polish workers, are in fact of far greater relevance to foreign employees: tax relief for the persons legally hiring domestic workers and babysitters would primarily result in the legalisation of the employment of women from Ukraine and other CIS countries, presently dominating this segment of the labour market. Finally, the stimulation of non-farming economic activity in the countryside could potentially open opportunities to employment of foreigners in the budding rural service sector (including tourism, hospitality and retail trade), especially in the areas

[26] W. M. Orłowski, *Konsekwencje ekonomiczne Schengen (Economic Effects of Schengen),* in: *Polska droga do Schengen. Opinie ekspertów (Polish Road to Schengen)*, op. cit., p. 97 nn.

[27] National Action Plan for Employment for 2005, Ministry of Economy and Labour, accepted by the Council of Ministers on 21 September 2004.

[28] National Strategy of Employment Growth and Human Resource Development for 2000-2006, accepted by the Council of Ministers on 4 January 2000.

[29] Maciej Duszczyk and Joanna Korczynska, *Demand for foreign labour in Poland—attempt at analysis and conclusions for migration policy* (in Polish), Institute of Public Affairs/National Chamber of Economy, 2005.

near Poland's eastern borders. Nonetheless, it must be stressed that the Plan fails to address implications of these policies on potential employment of foreigners in the Polish labour market.

Poland's unfinished economic transformation process and the twin challenges of high unemployment rate (which includes a significant component of structural joblessness) and a large supply of domestic labour are cited as challenges for the full implementation of the Lisbon strategy on employment in Poland.[30] Job creation, and improvement of labour productivity and competitiveness of domestic small and medium enterprises absorb at least some of the inactive working-age population. Such measures are therefore seen as key elements of national employment strategy. Thus the omission of issues related to the need for foreign labour (with the exception of high-skilled professionals working in subsidiaries of foreign companies, welcomed as a form of knowledge transfer) is not accidental, but remains in line with the general policy trend.

However, neither official documents nor expert studies reveal serious concerns about the impact of foreign labour on the level of unemployment. Most studies focus on the endogenous barriers to job growth, such as high administrative costs, low internal mobility or mismatch of skills and local demand. The impact is lower than what could be expected by observing the aggregate numbers of foreigners on the Polish market (less than one per cent) (Duszczyk, Korczynska) once the concentration of foreign workforce in large cities is taken into account. Warsaw, which records the largest, most diverse and visible group of migrants, enjoys the lowest rate of unemployment (under five per cent) and is a magnet for newcomers from other parts of Poland.

Demographic arguments for a need to consider importing immigrants into Poland have so far only been discussed in small expert circles,[31] and due to the sensitive conditions of the labour market, they have not become a subject of a political debate. The current demographic structure in Poland and changes in it have been well researched. A case in point is the First Demographic Congress in Poland, convened on the initiative of the Government Population Council, Polish Demographic Society and the Committee of Demographic Sciences of the Polish Academy of Science (PAN). The results of the research presented at the Congress show that the process of ageing has accelerated in Poland. In 1990, 18.6 per cent of the population were retired - in 2000 this proportion grew to 24.4 per cent. In simple terms, there were 44 retired persons for every 100 workers in 1990 and 62 pensioners per 100 workers in 2000. The forecasts for the period until 2010 predict that the productive-age population will increase at the rate of 170,000 persons annually and will decrease only after 2010.[32] The average life expectancy increased by three years for men (to 69.7) in 2000 and 2.5 years for women (78 years). The 1990s faced an unprecedented demographic regress – birth rates went down from 2.04 children per woman in 1990 to 1.34

[30] Tadeusz Zoltowski, *Sectoral Operational Programme Improvement of the Competitiveness of the Economy—Analysis of Changes in Draft and Final Versions,* expert opinion for the Ministry of Economy, Labour and Social Policy (in Polish), January 2004, p. 9.

[31] Z. Strzelecki, *Polska a Europa. Procesy demograficzne u progu XXI w. (Poland and Europe: Demographic Process at the Turn of the 21st Century). Paper of the Congress Commitee*, in: Polska a Europa. Procesy demograficzne u progu XXI w. *(Poland and Europe: Demographic Processes at the Turn of the 21st Century)*, op. cit., p. 45. Also: B. Balcerzak-Paradowska et al., *Założenia polityki ludnościowej w Polsce (Foundations of Polish population policy)*, IPiSS [http://www.ipiss.com.pl/teksty/politykalud.doc]

[32] J. Kropiwnicki, *Społeczno-ekonomiczne konsekwencje starzenia się społeczeństwa (Socio-economic consequences of population ageing)*, in: Z. Strzelecki, A. Ochocki (eds.) *Polska a Europa. Procesy demograficzne u progu XXI w. (Poland and Europe: Demographic Processes at the Turn of the 21st Century)*, vol. 1, Rządowa Rada Ludnościowa, Rządowe Centrum Studiów Strategicznych, Warsaw 2001, p. 19.

in 2000, while the overall rate dropped from 14.3 down to 9.8 per each 1,000 persons.[33] Poland is also forecast to become a net immigration country by 2006.[34]

Conclusions

It follows from this analysis of the Polish political discourse that migration has not been a major issue so far. The work on amending the Act on Aliens did not reveal any other migration policy proposals that would compete against the government-sponsored bill. On one hand, this was due to the lack of tradition and experience in the field of migration policy by the Polish State and hence the lack of experience and tradition in the conduct of a public discourse on immigration. On the other hand, the need to implement the *acquis communautaire* saw Polish policy stakeholders faced with a series of unprecedented practical problems that had to be regulated by the Polish law. The new problems had to be explored and remedied with specific solutions over a relatively short period of time. As time was running short for that debate, so did its substantive content. The successive Polish ruling teams prioritised consensus around the issue of Poland's membership in the EU, which signified an all-embracing approach to Poland's integration with EU structures rather than building consensus over piecemeal issues with the risk of delaying the Polish accession. That is why the Polish debate on migration has not been a subject in itself, but rather a function of the accession process.

1.2 Integration debate

General trend

The integration debate is also limited in Poland. The main reason is that it targets very few people. Following the citizenship criteria we can distinguish between immigrants with regular or irregular status, and refugees. Irregular immigrants are rarely subject to integration measures; and legal immigration is not recruitment-driven, therefore no legal provisions have been dedicated to them. Refugees are the only group of foreigners with established rights, and they are the key recipients of integration programmes.

Of the major groups in Poland, there are few who qualify for integration programmes:

The largest group of foreigners in Poland are citizens from Ukraine. However, they are not permanent residents. Instead, they engage in shuttle migration, coming and going according to their visa validity period (maximum of 90 days). Ukrainians come to Poland as petty traders or illegal workers, and a most are not in need of any integration programs.

The Vietnamese are also numerous, estimated at around 20-30,000 people,[35] of different status (regular and irregular). They live mainly in big cities, mostly in Warsaw, where they have established networks and are often involved in market trade.

There are also significant numbers of Armenians, who came to Poland after the crisis in Nagorno-Karabakh.

---

[33] T. Toczyński, *Statystyka demograficzna w Polsce (Demographic Statistics in Poland)*, in: Z. Strzelecki, A. Ochocki (eds.) *Polska a Europa. Procesy demograficzne u progu XXI w. (Poland and Europe: Demographic Processes at the Turn of the 21st Century),* op. cit., p. 31.

[34] *Podstawowe informacje o rozwoju demograficznym Polski (Basic information on the demographic development of Poland)*, Warszawa 1999; also J. Bijak, D. Kupiszewska, M. Kupiszewski, K. Saczuk, *Impact of international migration on population dynamics and labour force resources in Europe*, Warsaw 2005.

[35] Kepińska, E., Recent trends in International Migration - SOPEMI 2004 for Poland, Seria Prace Migracyjne no. 56, ISS UW, Warszawa.

There are large numbers of Chechens too, most of whom have either been granted formal refugee status, or the 'tolerated stay' status. Several thousands of them live in Poland, representing the largest single group under protection, but the majority perceive Poland as a temporary stop on their way west.

Repatriates are another large group – most of whom come from the former states of the USSR. They receive Polish citizenship when they enter Poland. Repatriates are eligible to take part in an integration scheme.

Main categories of foreigners in integration debate

Legal immigrants

Because of small numbers,[36] legal immigrants are not a group that receive any particular attention from policy makers or the public. Their existence continues without any real objections and their status is not a widely discussed issue in the context of new laws or regulations.

Legal immigrants are the group least dependent on the State policies, which means they receive no support, and they do not suffer much everyday discrimination.[37] Legal immigrants take care of their own integration themselves, in both the economic and the cultural sense. However, they encounter serious legal and bureaucratic obstacles due to regulations on access to housing, social services or employment, where a wide range of permits are needed.

It must be remembered that legalisation of stay concerns only particular individuals, educated or determined enough not to choose the easier irregular status. Their success in Poland depends on personal contacts and their ability to adapt skills. In Poland, immigrants do not live in ghettos (Weinar), they are in constant communication with the rest of society, the broader society is therefore forced to acknowledge their presence and make at least a minimal effort towards acceptance. It is also important to note that most have committed to a future in Poland, and as such, they will probably pursue Polish citizenship, and ultimately gain equal status and political rights. At the moment, this group of immigrants tend to assimilate rather than integrate, but the situation may change if their numbers grow in the future.

The only section of this group that attracts the attention of policy makers are foreign students. There are over 8,000 foreign students in Polish universities (Kępińska). The debate on student integration has been connected to the debate on economic migration. While discussing the Aliens Act of 2003, the idea of pro-student immigration policy was rejected. Some MPs and social actors, such as the Helsinki Foundation, argued that students, especially graduates, possess a certain capital that could be of use to Poland. They also identified students as a group that integrate easily, and because they are a 'non-problematic group', they should be encouraged to stay. The debate was not successful in the sense that the arguments rejecting any possibility of immigration prevailed. However, they are able to count their years of study in applications for permanent residency.[38]

---

[36] In May 2002 there were only slightly over 49,000 residents, who held only one, (non-Polish) citizenship. (Polish National Census 2002. *Raport z wyników Narodowego Spisu Powszechnego Ludności i Mieszkań*, GUS, Warszawa 2003 (National Census 2002))

[37] Agnieszka Weinar, "Tak daleko stąd, tak blisko – europeizacja polskiej polityki migracyjnej wobec legalnych imigrantów, uchodźców i repatriantów" w Iglicka K. (red.), *Integracja czy dyskryminacja? Polskie wyzwania i dylematy u progu wielokulturowości*, Instytut Spraw Publicznych, Warszawa 2003.

[38] The government opted to delay a comprehensive settlement of the issue of foreign students until late 2005 or early 2006 by incorporating Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission

Another category, family members, entered Poland through their entitlement to family reunification. Family members of legal aliens or foreign members of a Polish citizen's family are defined as spouses and children, biological or adopted. In case of a refugee unaccompanied minor, the family is defined as parents or grandparents. It is important to note that reunified family members are currently not covered with any specific integration measures. This omission may be explained by the fact that integration programmes remain limited, concentrating mainly on refugees. However, the limitation should not be seen as definitive given continuing amendments of the national legislation.

Foreign spouses of Polish citizens represent a particular interest in this category. Although the official position does not consider their integration a major issue; their welfare has been considered in the debates on consecutive amendments of the Aliens Act (including the debate in 2005). The debate attracted attention of some political parties and involved the Helsinki Foundation and the Ombudsman Office. In 2003, the residence period required to apply for permanent residence was shortened, from five to two years. This was considered a necessary change from the point of view of the family; and it has a practical impact on citizenship policy, as in practice it limits the period of residence required for receiving Polish citizenship from approximately 10 years (binding all legal immigrants) to most likely seven years.

Apart from liberalising the resident requirements for mixed couples, the Aliens Law of 2003 introduced clauses to combat fraudulent marriages. The legal solution was seen to be necessary as about 10 per cent of over 6,000 mixed marriages were found not to be genuine. Article 55 of the Aliens Law enumerates general indications that this problem exists, allowing the Governor of Province to undertake proper action. However, the general arguments given in the debate are against too much involvement by the State in the issues of marriage.

It must be noted, that the majority of MPs or Senators' interventions so far have been for mixed marriages. It seems that the administration of the law in this sphere is often unjust, and even overused.[39] Those active in the field of human rights, UNHCR and the Helsinki Foundation,[40] are trying to combat this type of discrimination. In the parliamentary debate, the well being of the family was the main criterion for all concerned, regardless of political affiliation. In this atmosphere, the issue of fraudulent marriages was tackled, but the general climate was in favour of the mixed marriages and family rights.

Irregular immigrants

It is estimated that there are between 100,000 and 600,000 irregular migrants in Poland. Their presence is widely discussed, however, the discussions take place in a different contexts. Expulsion, deportation and imprisonment are debated more frequently than integration. This should not come as a surprise – illegal immigration is found everywhere in the world – and there is often more concern about legalisation than integration schemes. The Polish experience with shuttle migration from the neighbouring countries indicates that the people coming to the country either stick to the shuttle-migration rhythm, or end up in a prolonged state of illegality. Only very few try to obtain some legal recognition. This is despite that fact that their irregular status deprives them of formal access to social services, although they do have access to emergency medical services. Their children are also able to enrol in public schools as the Polish constitution guarantees the right to universal basic

---

of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service. See the session of the Internal Affairs parliamentary committee of 18 January 2005.

[39] 4th term, 49th session, 1st day (20.05.2003)

[40] 1800/IV, Committee for Internal Affairs and Administration /no 84/ 06-05-2003

education to all persons residing in the national territory, and schools verify residence status only occasionally.

The persistence of relatively liberal visa policies towards the residents of neighbouring CIS states has helped to disguise the growing issue of foreigners who, following their arrival on short-term visas, take up residence and employment in the country. The last amendment of the aliens act prior to EU accession, which included a regularisation campaign, addressed the issue of the status of these people. Regularisation was available to those who could demonstrate residence in Poland dating back to at least 1997 (the date of the first EU-accession-driven amendment of the law on aliens) and sufficient financial resources for obtaining a year long residence permit. However, only 3,508 migrants used this opportunity to legalise their stay. Among them, the two major groups were Armenians (46 per cent) and Vietnamese (38 per cent). The program was reopened until November 30, 2004, during which period an additional 2,413 migrants obtained permits. Again, the Armenians and the Vietnamese comprised respectively 44 per cent and 41 per cent of the total (Kępińska).

Although the programme resolved the issue of irregular migrants of those two established ethnic groups, it did not address the problem of the growth of irregular transit migrants or the rise in the numbers of more recent overstayers. Nor did it attract much attention from the nationalities, representing the bulk of illegal workers or traders who until 2003 enjoyed a visa-free regime (Belarusians, Russians or Ukrainians). The regularisation failed resolve the issue of the presence of this group because of the strict requirements - length of stay, financial and housing conditions, and their lack of interest in long-term immigration as they still have relatively easy access to the Polish territory for maintaining shuttle trade relations.

Refugees

Refugees are the most prominent group of foreigners, not for their numbers (there were 8,079 applications in 2004, 305 were recognised refugees, and 832 people granted tolerated stay) (Data Office for Repatriates and Foreigners, www.uric.gov.pl) but for their presence in the public and political discourse. The refugee question is framed as a humanitarian and a solidarity issue, and the tone of the debate is set by international organisations. Refugee status is based on international legal provisions, adopted by Poland, which means that the refugees enjoy internationally recognised rights. The Polish State and the international community guarantee these rights, giving refugees two avenues of appeal.

Refugees are the only immigrant group whose individual needs were recognised in the National Action Plan for Social Inclusion. As the only foreign group, refugees can participate in an integration programme. The Polish law guarantees that refugees have free access to accommodation, employment, health services and education. The new Act on Social Welfare[41] provides Polish language classes, vocational training, and cash benefits for specific purposes, such as rent, food and clothes etc.

In reality, however, refugees encounter a number of challenges during their integration process. Refugees have difficulties finding a place to live, or getting a job, and the Act does not offer adequate solutions. The serious weakness of the present system is that the refugees, who should be preparing for their future in Poland, can only count on a sum of money from the state, often not enough to meet their needs.

However, the integration policy failures are perhaps more often linked to the difficult general situation of Poland, where even native Poles encounter serious problems in everyday life. The refugees, aware of their special status, are generally also aware of drawbacks of the Polish socio-economic reality. They know that it is difficult to demand special treatment, as,

[41] Act of 12 March 2004 on Social Welfare (Journal of Laws No 64, item. 593), chapter 5.

for example, in employment, during a period of very high unemployment in Poland. Refugees are apparently the most marginalised group of the foreigners, despite the integration programs. They often have to balance on the edge of the extreme poverty, sharing the resources with the poorest Polish social strata and they are not really integrated in the society on any level - economic, social, or cultural.[42]

NGO's often campaign about the need to integrate refugees, based on humanitarian grounds, but the government clearly states that Poland can offer only a minimum standard. There is no anti-refugee talk; however, the atmosphere around the inflows is one of high diffidence and mixed feelings. It looks as though the low quality of the integration scheme is effectively pushing refugees out of the country, to Western Europe, places that might offer better opportunities.

The debate between the major actors, i.e. UNHCR and Polish policy makers, has evolved around the difficult economic situation of the country in general. As the government states, the integration program cannot be developed properly, since the lack of funds concerns not only refugees but also the native population. In a situation where there is general scarcity, for example in accommodation, it would be politically risky to provide preferential treatment to foreigners. Such arguments are opposed by the NGOs, who say that it in the long run it is more expensive to keep a refugee family on welfare than to give it a boost at the beginning so it can start earning a living and become independent. Another important argument concerns a potential benefit of refugee's qualifications and skills. However, this argument has not really been taken up by the government or individual MPs.

Repatriates

The last group, repatriates, number around 8,000 (2005). Repatriation concerns people of Polish origin who have been migrating to Poland from the states of the former Soviet Union since the beginning of the 1990s. The process of their return was not regulated until 1997 and they were treated like any other foreigners coming to Poland.[43] This group is protected by the separate Repatriation Act of 2000, which is designed to recognise their special status. This Act grants them access to the only fully developed integration policy that includes not only the State, but also the society.

They generally enjoy a high degree of acceptance, partially thanks to their Polish origins, partially because of the manner in which they immigrate: repatriation is a community issue, it is decided upon and organised by a community willing to host a repatriate.[44] Such framing of the programme helps to rule out most discriminatory practices. At the same time, a lot of Polish citizens fail to recognise repatriation as a significant issue. However, they do not regard the newcomers as compatriots because of language barriers (their Russian accent or insufficient knowledge of the Polish language).[45]

---

[42] Section on Poland in: Monika Mazur-Rafał, E, Zienkiewicz, *Equality, Diversity and Enlargement: Report on measures to combat discrimination in acceding and candidate countries*, European Commission: DG 4, Brussels 2003.

[43] For an overview of the process of repatriation in the 1990s and early legal and institutional solutions, see: P. Hut, *Warunki zycia i proces adaptacji repatriantow w Polsce w latach 1992-2000* [Living conditions and adaptation process of the repatriates in Poland 1992-2000], Institute of Social Policy, University of Warsaw 2002.

[44] The extent of the assistance depends on the place of origin of the repatriates. Typically, in cases of persons originally resident in the non-European part of the former USSR, local governments provide free housing to the repatriates, while the central state budget funds are disbursed in the form of cash benefits in the initial period of the repatriates' stay in Poland. The assistance is more limited and offered on a discretionary basis to the other repatriates. See http://www.mswia.gov.pl/cudzo_rep_eng1.html

[45] See e.g. K. Iglicka, "Are they fellow-countrymen or not? The migration of Kazakhs of Polish origin from Kazakhstan to Poland", *Working Paper No. 13,* Institute for Social Studies at University of Warsaw 1997, p. 14.

The repatriation policy model depends on budgetary resources, ”no money, no repatriation” – the same philosophy cannot be used in the case of refugees or immigrants. The policy helps repatriates, but the final success of their (re)integration depends on the repatriates themselves. With Polish citizenship, repatriates do not encounter the same administrative problems as other legal immigrants. Instead, their experience of integration is more similar to the refugee experience, but in their case the involvement of the community in their integration generally adds to the potential for success.

Repatriates are viewed as a special category of aliens, who are not really foreigners but long-lost kinsmen, and thus in need of special treatment offered by the state. The arguments are common on all the sides of the political spectrum: repatriation should be promoted, however, repatriates should be invited only if their basic needs, such as housing and employment, are met. There is a general consensus about the importance of integration to keep repatriates on the surface of the society, not to let them fall through the cracks.

However, there have also been some arguments for limiting the numbers. The issue at hand revolves around the number of repatriates that should be dependent on the available resources. On the one hand, right-wing parties were traditionally eager to accommodate the largest number of repatriates possible, seeing the process as historical compensation, while on the other hand the government and other parties favoured a more gradual approach, taking into account the budgetary limitations. The Repatriation Act limited the geographic scope to the territory to which the ethnic Poles had been deported as part of Stalinist repressions, and where the distance to the homeland and local conditions made the continuation of Polish traditions most difficult.[46]

The requirement for the local governments to provide housing and facilitate the entry of the repatriates into the job markets proved to be ambitious. Local governments, fearing the financial consequences and negative attitude of local communities, have been generally reluctant to invite repatriates.[47] In effect, the programme lured into immigration far fewer Polish descendants than it had been hoped. Instead, at times the repatriation process attracted enterprising individuals who considered it as the easiest legal migration channel in order to improve their economic status. At the moment, the repatriation project is being reconsidered in government circles, as indicated by the statements from the Office of Repatriation and Aliens officials. One of the arguments in the recent debate is that repatriation could address the country’s growing demographic imbalances as a key tool for gaining migrants in the future.

Transposition of the EU directives on family reunification and long-term residents

The new amendment of the aliens act was adopted by the Parliament on 22 April 2005.[48] The Act amends 18 other Acts, concerning *inter alia* aliens, registration of residents, education, social security, employment, juridical system, by introducing regulations coherent with the EU legislation on foreigners elaborated since 2003. The Directive on Family Reunification is only one of six other directives considered. The changes are few and they improve the existing law, making it more compatible with EU regulations. In the parliamentary debate, apart from the consensus on the need to remedy any inconsistencies of the national acts with the *acquis*, some established issues, present in previous debates have reappeared. For instance, some MPs raised the question of unequal status of foreign

[46] The area covers Armenia, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan and the Asian part of Russia. See also ‘Discriminatory landscape’ Department of Journalism and Political Science, Warsaw University, 2003/2004, http://www.ips.uw.edu.pl/xenophob/xeno-pliki/Xeno_WP1_WP4_eng.pdf

[47] Hut, *op.cit.*

[48] Act Amending the Aliens Act of 13 June 2003 and Act on Granting Protection to Aliens on Polish Territory of 13 June 2003 as well as other Acts (Journal of Laws No. 94, item 788)

and mixed families. However, no major transformations of the philosophy of the law were contemplated.[49]

Conclusions

In the political discourse, the whole integration process is still considered a question for the future. However, the recent developments show that Polish decision makers have started to identify problems if the issue is ignored.[50] While working on the amendment of the Aliens Acts that took place in late 2004 and early 2005, the question of future immigration emerged with greater frequency. What used to be the domain of experts, scholars and specialised technocrats, has started to enter into political discourse. As for now, the discourse is being framed as the need for preparation. The actors involved point to the main standards of integration, as presented by the Western European models: state-driven support for ethnic diversity, meaning maintaining of languages, cultures, and religions.

The fear among experts and practitioners is that the Polish society is not ready for a confrontation with settling communities of immigrants. Some warn that Poles should be educated about the ideas and standards of integration before the actual massive inflows occur. At the same time it should be noted that there are no pressing needs in Poland to address racism or xenophobia. The EUMC report[51] published on 15 March 2005 revealed that Poland is one of the least xenophobic countries in Europe.

Against the relatively low-key official discourse on integration, efforts of non-government organisations (highlighted in part 2 of the paper) to assist foreigners, in particular refugees, in coping with the Polish realities take on special significance. The UNHCR has worked with other groups in civil-society to raise the awareness of the society's obligation to host persons in need of protection. Chechens represent the largest ethnic group among protected persons (although regularly denied refugee status) and they have therefore become the object of media attention. Despite the cultural gap, the Polish public has been generally sympathetic towards that group, which was helped by the relatively broad coverage of the Chechen conflict in the national media. Nonetheless, the recent security concerns following the London attacks could undermine this positive climate.

1.3 The brain-drain debate

In Poland, brain drain is not often discussed. This is largely because a) economic immigration is not a political issue, and b) there is no active recruitment policy. When it does emerge, it usually does so on two levels and in two different perspectives: Europe-bound emigration and the repatriation of Polish communities from abroad.

Europe-bound emigration

Discussions on active recruitment policies have not really taken shape in Poland, and considering the 19 per cent unemployment rate, it is not expected that they will start soon. Any concerns about the brain drain phenomena are pre-mature, and if they are mentioned, they are placed on a theoretical level, and spoken about only in terms of universal truths. Anti-brain-drain stances are taken mostly by the trade unions, involved in a Europe-wide campaign. However, they do not express the fears at the public level. Instead, they remain

[49] (4th term, 101st Sejm session, 21 April 2005, item 29).

[50] Memorial of the Forecasts Committee „Poland 2000 Plus" at the Polish Academy of Sciences submitted to the top authorities of the Republic of Poland on the need to define state policy in the realm of foreign migrations, 16.10.2002, in: Mołdawa T., Wojtaszczyk K.A, Szymański A., (eds.), Wymiar społeczny członkostwa Polski w Unii Europejskiej, INP UW, Warsaw 2003

[51] European Center for Monitoring Racism and Xenophobia, *Majority Attitudes towards Migrants and Minorities: Key findings from the Eurobarometer and the European Social Survey on 15 March 2005*, Vienna, 2005.

mere ‘expert debates’ and the arguments and solutions are often no different from those used at the EU level.

Generally speaking, representatives of trade unions, such as Solidarity,[52] usually underline the responsibility of the EU towards countries of origin and the need to cooperate with them for the sake of the “brain gain”, e.g. through return migration programs. However, no specific measures have been publicised on the national scene, nor introduced into the debate.

In the present situation, the main problem in Poland is the brain drain of domestic resources. Competition within the EU is fierce, and in this environment, a number of high-skilled workers, especially in medical, financial, IT and scientific sectors are leaving Poland. The debate on the emigration of Polish high-skilled workers after the enlargement has already started. The main concerns raised relate to the ways Poland should deal with qualified labour shortages both now and after the transition periods will have ended.

Polish communities

The brain-drain debate has a different flavour when applied to the issue of the ethnic Poles in countries to the east. The government has been active in administering a scholarship program for young citizens of the former USSR of Polish decent. The main idea has been to prepare elites able to improve the position of Polish communities in their country of origin (in particular in the European part of the former Soviet Union). In reality, the students have come to Poland to stay and there are no administrative means to send them back.

Arguments against this phenomenon have been based on patriotic and idealistic assumptions – Polish communities need elites in their country of origin, not in Poland, in order to change their status quo. The proposed remedy includes providing scholarships for studies in the country of origin; however, few students are interested in such an opportunity. The arguments against are thus not against immigration as such (the numbers amount to several hundred people), but against sidelining the main, patriotic, idea behind the scholarships.

On the other hand, the Polish government does not oppose this type of immigration, linking it to the repatriation process. The key argument here is that the State cannot place obstacles in the way of these people realising their dreams. Because of this, the government has voiced its support for the proposal. Nobody argues about the benefits or drawbacks of immigration. The members of Polish community who are based abroad, but come to study and ultimately stay in Poland are not officially talked about as immigrants.

Such a framing leaves room for speculations. We can say that although immigration is officially not connected to any foreign policy issues, nevertheless, there is a hidden gradation of immigration – it seems that members of Polish communities on the East will be lured in the first place. No one talks about official recruitment on a large scale, but small and effective actions, as the mentioned scholarships, provide a good quality group of immigrants.

[52] European Centre of Natolin Foundation. “Greenbook on Economic Migration” expert debate on April 28, 2005.

Chapter 2. *Key participants in Polish immigration and integration debates*

Government institutions

Coordination among some major national institutions has been acknowledged as a priority due to the fact that the different sub-domains of the JHA are 'owned' by distinct, independent national players. Thus, although the European Commission played a key role in shaping the process of implementing the *acquis,* the manner in which its recommendations were taken into account clearly depended on the positions and institutional interests of various agencies. Among the national institutions, the Ministry of Foreign Affairs, the Ministry of Interior and the Border Guards play key roles in their respective domains, while other ministries (Economy, Finance) and agencies (Office for Repatriation and Aliens, Office for European Integration, provincial governments) either limited themselves to technical tasks or had only indirect influence on the issue in question.

Ministry of Foreign Affairs (www.msz.gov.pl) **and the consular service.** The Consular Department oversees the Polish consular and visa policy, which includes the protection of rights and interests of the Polish citizens while staying abroad and the processing of foreigners' visa applications. The Department was responsible for executing the Directive No. 574/99 of the Council of the European Communities, requiring introducing visas for the citizens of 15 post-communist countries. Although the Department formally executes portions of the Schengen Action Plan and Strategy for Integrated Border Management, it retains autonomy from the Ministry of Interior, and has followed the Foreign Ministry's rationale and approach to the issue. A clear separation of competences was achieved through the 1990s with the Ministry of Interior so that the latter never attempted to coordinate the work of the Consular Department as part of executing the Schengen Action Plan's provisions.

This institutional division of competencies justifies considering visa policy a realm, which is indeed quite separate from border control. Accordingly, the process of adjustment of the consular network and decisions on the visa fees were subordinated primarily to the lines of Polish foreign policy, among whose priorities is maintaining the tourist, trade and cultural exchange with the eastern neighbours, and Ukraine in particular. Therefore, since 1998 when the drop in tourist traffic and trade volume with the East sparked the first broader debate on adjustments to the visa and administrative instruments in light of the conditions on the eastern border, the Foreign Ministry proposed minimizing the barriers to cross-border movement in the first place, resorting to veiled criticism of the hard line approach of the Ministry of Interior. The Department consistently views the visa policy as an instrument of foreign policy. A decision was made; for instance, by the Polish President at a meeting with his Ukrainian partner in February 2003 that visa fees would not be charged of Ukrainian nationals. Ukraine's decision to keep visa-free travel regime for the Polish citizens is in turn a solution, which the Polish Foreign Ministry would like to see extended to other CIS countries. The Ministry has continued to work out bilateral arrangements on facilitating the conditions of obtaining Polish visas (Moldova in April 2004), and presses for more favourable solutions for Polish nationals (with the United States).

Insights into the Ministry's work can be gained by references to its annual Consular Report, revealing the basic statistics on visas issued, the location of consulates and changes in consular and visa policy. The Minister of Foreign Affairs also presents a lengthy overview of Directions of Polish Foreign Policy to the Parliament every January. The rationale for some of the policies can be assessed from reviewing the contents of the periodical *International Affairs,* containing contributions from the staff of the Ministry. The issue of 'Eastern policy' was tackled in the official national 'non-paper', prepared by the Ministry with the participation of key non-governmental institutions and experts. The paper initiated a period of closer

consultation of the Polish position on the details of the European Neighbourhood Policy with social partners, including many of those listed in the section on the Public Debate.

The **Ministry of Internal Affairs and Administration** (www.mswia.gov.pl) is the lead institution in charge of implementing the JHA *acquis*, overseeing the work of, *inter alia*, the police, the border guards and the office for repatriation and aliens. The ministry has initiated the legislative activities, leading to the changes in national legislation on aliens, citizenship, repatriation, border control, etc. The Minister of Interior has presided since October 1998 over the interdepartmental team for managing the state border, which gathered high-rank representatives from 17 state institutions. Regular sessions, at which other state organs were represented (e.g. Provincial governors), produced a detailed plan of border management for the period until accession and the guidelines of the strategy until 2010. Department of European Integration and International Cooperation issued in June 2000 the national "Strategy of Integrated Border Management", which became a starting point for the discussion on the cooperation of the state with other institutions. Currently, the Department of International Cooperation coordinates and reports on the efforts of various institutions to meet the obligations of the Schengen Action Plan ahead of planned full accession to the Schengen Agreement in 2007.

The **Border Guard** (www.sg.gov.pl) is formally subordinated to the Ministry of Interior and represents the key agency implementing the controlling functions in the areas of entry, residence and departure of foreigners. Until the passage of a new Border Guard Act in 2001, the force had the right to issue permits for crossing the border (including visas).[53] The Guard has been the main recipient of the Commission's expectations about improved border security tightening as well as of the Schengen Facility financing.[54] It is directly responsible for carrying out relevant portions of the Schengen Action Plan. Moreover, Polish Border Guards are involved in extensive schemes of cooperation, ranging from operational collaboration (joint controls on the Polish-German frontier, execution of readmission agreements—see section on Border Control for details) to information exchange at the European Council's Working Group on Borders.

Paradoxically, due to the high profile of the issue of border control and considerable investments made into the border since 1990, the Border Guard is increasingly open about the actual pressure on the frontier infrastructure and security challenges. The Border Guards headquarters serve as the clearing-house and analytical centre for detailed statistics on cross-border movement of persons and goods (in cooperation with the Customs Service, working under the Ministry of Finance). The Border Guard prepares annual reports, training materials, research publications and statistical tables, comprehensively covering various migration flows across the state borders.[55] The institution's greater openness about the manner in which the travellers are treated was fundamental to the monitoring of conditions for asylum-seekers and CIS travellers at the border conducted by non-governmental organisations.[56]

---

[53] Art. 1 p. 2 of the Act on the Border Guard of 12 October 1990 (Dz. U. Official Journal no. 78, item. 642 with subsequent amendments).

[54] J. Białocerkiewicz (ed.), *Wschodnia granica RP zewnętrzną granicą Unii Europejskiej*, *materiały z konferencji (Poland's eastern border as the external border of the EU)*, Border Guard Training Centre, Kętrzyn 2001.

[55] The Border Guard Training Centre in Ketrzyn in north-eastern Poland organises public conferences and publishes an analytical quarterly, *Problemy Ochrony Granic* (Issues in Border Protection). Quarterly and annual statistics and graphs may be downloaded at: www.sg.gov.pl

[56] H. Rubinstein et al., *Raport z monitoringu granicznych placówek kontrolnych Straży Granicznej w zakresie realizacji prawa do ubiegania się o status uchodźcy w Rzeczpospolitej Polskiej (*Report on the monitoring of the border control facilities of the Border Guards in view of the execution of the right to asylum in the Republic of Poland), Helsinki Foundation of Human Rights: Warsaw 1998;

The **Office for Repatriation and Aliens (URiC)** (www.uric.gov.pl) was established by the amended act on aliens on 11 April 2001.[57] It took over a broad set of issues concerning foreigners from the Department for Migration and Asylum of the Ministry of Interior. The institution issues decisions on refugee and repatriation status, long-term residence, conducts related administrative procedures and oversees the assistance to repatriates, recognised refugees and temporarily protected persons and manages centres for asylum-seekers. The office manages the register of foreigners applying for long-term visas, repatriation and residing in Poland and undertakes regular analyses on migratory movement and asylum-seekers. The president of the office is responsible for the coordination of the state administration's activities in the field of repatriation and aliens, and developing a state policy concept on aliens.[58] The office has stepped up its consultations with non-governmental experts on the development of comprehensive national migration policy.[59]

Provincial governors' offices and local governments. The Act on Aliens of 1997 centralised the decision-making on visa applications, transferring the process from the level of the governor's office to that of the minister. Administrative reform, which took place in 1999 decentralised the process for residence registration (including the registration of aliens), welfare provision, programmes for combating unemployment as well as health care and education. Provincial governors are authorised, *inter alia*, to grant or deny the following documents: a fixed-time residence visa, a settlement visa for employment purposes to a foreign national who had been granted an extension on the permit for employment or taking up another employment, a fixed-time residence permit or settlement permit. Governors may also issue or replace residence cards.[60]

The **Ministry of Economy and Labour** (www.mgip.gov.pl/) and the **Ministry of Social Policy** (www.mps.gov.pl/) are the main bodies of authority responsible for the issues of employment, including the employment of aliens.[61] The Ministries participate in drafting the legal framework for temporary employment in Poland and supervise its implementation.[62] The Ministry of Economy gathers statistics on the expenditure of aliens in Poland and commissions studies on the economic activities of foreigners, including those in the informal sector. The institution has consistently stressed the positive aspect of foreigners' short-term visits to Poland for tourist and business purposes for the local communities, especially in the borderlands. The Ministry of Social Policy also assists aliens who for various reasons rely on welfare service of social assistance centres (including refugees, who benefit from annual integration programmes, and other aliens who cannot cope with the Polish reality).

The **Ministry of Finance** (www.mofnet.gov.pl) and the **Customs Service** (www.mofnet.gov.pl/sluzba_celna/) are indirectly interested in cross-border traffic. Despite their concerns with the large-scale smuggling and shortfall in revenue to the state budget, especially in excise-taxed alcohol and tobacco imports due to organised illegal activities, the institutions' estimates of the potential losses to the small businesses and households due to

[57] Act of 11 April 2001 amending the Act on Aliens and some other laws, (Dz. U. – Official Journal no 127, item1400).
[58] Art. 68c of the Act of 11 April 2001 amending the Act on Aliens and some other laws, op. cit. See also www.mswia.gov.pl/cudzo.html
[59] For instance, the Office began activities on a national document on the assumptions of the Polish migration policy in November 2002 and sought input from a range of government organs and research institutions, including the IPA.
[60] Articles 79 and 82 of the Act of 11 April 2001 on the amendments to the act on aliens and to some other acts, *op.cit.*
[61] Until 1 January 2003 merged into Ministry of Labour and Social Policy (www.mpips.gov.pl).
[62] *Podstawowe kierunki działania Ministra Pracy i Polityki Społecznej w 2003 r.(Basic action lines by the Minister of Labour and Social Policy)* www.mg.gov.pl/

the collapse of cross-border 'suitcase trade' have been behind arguments for liberal visa solutions.[63]

The Office of the Committee for European Integration (UKIE) (www.ukie.gov.pl) was involved in the review of Polish legislation against the *acquis* and the collection of information on the progress of implementation of the *acquis* by line ministries. However, given the clearly dominant role of the Ministries of Foreign Affairs and Interior in the initiatives of legal changes (e.g. Laws on aliens) and management of union funds (e.g. The Schengen facility), the UKIE played a rather indirect role in the actual implementation process.

Research institutions

The **Center for International Relations** (www.csm.org.pl) is an independent research institute, focusing on the analysis of Polish foreign policy, European integration and security policy and Poland's international environment The experts affiliated with the Center's Migration and Eastern Programme have raised the issues of the assumptions of the national migration policy,[64] while the Center's conferences allowed for the presentation of international perspectives on EU's migration policies. [65]

The **Institute of Public Affairs'** (www.isp.org.pl) Migration and Eastern Policy Programme has worked on issues of Poland's relations with neighbours and the eastern policy of the European Union, including the impact of the Schengen *acquis* for the countries of Central and Eastern Europe (CEE). Other issue areas cover free movement of labour and the globalisation of labour markets, return migration and repatriation in CEE.[66] The Institute's experts prepared an analytical study for the sitting of the Senate Committee for Foreign Relations and European Integration on the subject "Poland and the other applicant countries vis-à-vis the Schengen *acquis* obligations." Along with other contributions, the Institute focuses on assessing the political, economic and social effects of introducing the *acquis* requirements, as published in their comprehensive policy publication.[67] The Institute built on this expertise by co-ordinating a multinational project with several other policy institutes, representing both prospective EU Member States and their non-EU neighbours. The policy implications of the introduction of the Schengen *acquis* on the new borderlands and national policies of both Poland and other Central and East European states were presented in a series of case studies, and conclusions were drawn for both national and EU policies.[68]

---

[63] See for instance W. Orlowski, "Konsekwencje ekonomiczne Schengen" (Economic consequences of Schengen) in: *Polska droga do Schengen: Opinie ekspertow*, IPA: Warsaw 2000, pp. 89-109.

[64] See M. Mazur-Rafał, Głos za wprowadzeniem wiz (Voice in Favour of the Visa Regime), Rzeczpospolita, 18.01.2002, Koniunktura dla imigracji (An Immigration Boom), Unia & Polska, 1-15.08.2002, Granice pod kontrolą (Borders under Control), Rzeczpospolita, 09.08.2002, Kłopoty z gośćmi (Trouble with Visitors), Unia & Polska, 12.09.2002, Goście pilnie potrzebni (Visitors Urgently Wanted), Unia & Polska, 05.12.2002.

[65] "The European Union's common immigration policy? Experience of the EU's present and future border countries: Austria, Germany, Italy, Hungary and Poland" in association with the Friedrich Ebert Foundation in Poland, 24 and 25.05.2002, Jachranka; "Poland as a future frontier country of the EU. New opportunities and new challenges", meeting with the MSWiA's undersecretary of state, Zenon Kosiniak-Kamysz, 12.11.2002, Warsaw.

[66] See e.g. ed. K. Iglicka, *Integracja czy dyskryminacja? Polskie wyzwania i dylematy u progu wielokulturowosci*, [Integration or discrimination? Polish challenges and dilemmas on the threshold of multiculturalism], IPA Warsaw 2003; J. Korczynska, M. Duszczyk, *Zapotrzebowanie na prace cudzoziemcow w Polsce: proba analizy I wnioskow dla polityki migracyjnej*, [Demand for foreign labour in Poland: Attempt at analysis and conclusions for migration policy], IPA Warsaw 2005.

[67] *Polska droga do Schengen, Opinie ekspertów (Polish Road to Schengen: Expert Opinions),* IPA, Warsaw 2001.

[68] See in particular: K. Iglicka, R. Rybicki, *Schengen: Consequences for National Migration Policy,* IPA Warsaw 2002 [http://www.ips.org.pl/docs/pm/eng/polska/rep1pol.pdf]; ed. P. Kazmierkiewicz, *Turning Threats into Opportunities: Impact of the Expansion of Schengen* Acquis *on the New Borderlands,* IPA Warsaw 2003.

The Stefan Batory Foundation's (www.batory.org.pl) European Programme initiated a number of debates on various policies of the EU, including the Neighbourhood Policy by organising conferences and releasing a series of policy papers, such as *On Europe's Future.* Two reports in the series dealt with the issues posed by the EU's eastern borders, and Union visa and migration policies.[69] Between 2002 and 2004, the Foundation commissioned and oversaw two programs of monitoring the openness of Polish eastern borders and accessibility of visa procedures at Polish consulates in Belarus, Russia and Ukraine. Currently, the Batory Foundation's International Cooperation Programme is planning a follow-up study on the visa policies and practices of four EU Member States selected third countries, including Moldova.

Institute of Labour and Welfare (IPiSS) (www.ipiss.com.pl) investigates the labour market in Poland. Its participation in the political debate takes the form of mostly scientific-research contributions. The Institute issues the journal "Polityka Społeczna" (Social Policy), one issue has developed into a monograph on migration ("Polityka Społeczna" 2000, no. 5/6). In it, aliens' employment in Poland was reviewed in the context of surveys focused on quantitative aspects (stratification of the Polish labour market) ("Polityka Społeczna" 2000, no 5-6.), legal considerations (mainly the job situation of physicians) and illegal migrations.[70] IPiSS experts are invited to consult various ministries and contribute to the scientific life of the academia. Their research-based expertise is an important source of knowledge for the Polish migration policy makers. [71] IPiSS holds a distinct position on the future policy of aliens' employment in Poland. It favours a greater flexibility and is opposed to the closing off of the labour market. The greater flexibility advocated by the IPiSS should consist of the pursuit of a selective and quota-based policy towards labour migrants, with the simultaneous fight against illegal immigration.

Centre of Migration Studies (OBM ISS UW) (www.iss.uw.edu.pl/osrodki/cmr/en/) is a unit of the Institute of Social Studies at Warsaw University. Established in 1993, it comprises an interdisciplinary team of over 20 researchers working on various aspects of migration flows. The publishing series of OBM ISS UW Migration Papers on the legal migrations into Poland has so far covered a broad scope of issues, including:

-- statistics and analyses of migration flows in Poland,[72]

-- public opinion attitudes towards immigrants and return migrants,[73]

---

[69] *Uchylone drzwi: wschodnia granica rozszerzonej unii europejskiej (The Half-open Door: the Eastern Border of the Enlarged European Union)*, Report no 2 of the *On Europe's Future* series, 2001. *Wspólne wyzwania – członkowie i kandydaci wobec przyszłej polityki migracyjnej UE (Common Challenges – the Members and the Candidates vis-à-vis the EU's Future Migration Policy)*, report no 5 of the *On Europe's Future* series, 2001. To be found at: www.batory.org.pl/ftp/program/europejski.

[70] See also: *Zajęcia zarobkowe cudzoziemców w Polsce z uwzględnieniem zatrudnienia w szarej strefie (Income-earning Occupations by Aliens in Poland, including Jobs within the Grey Zone)*, 1998, unpublished.

[71] E.g. *O potrzebie określenia polityki państwa w obszarze migracji (On the Need to Define the State Policy on Migration)*, 2002, Memorandum by the Forecasts Committee 2002 Plus (PAN).

[72] K. Głąbicka, E. Kępińska, P. Koryś, B. Sakson, *Imigracja do Polski w świetle urzędowych statystyk (Immigration into Poland in the Light of Official Statistics)*, Working Papers, Serie Migracyjne, no 5, ISS, Warszawa 1997; K.Iglicka, *Migration Movements from and into Poland in the Light of the East-West European Migration, Working Papers*, Serie Migracyjne, no 33, ISS, Warszawa 2000; M. Okólski, *Statystyka imigracji w Polsce. Warunki poprawności, ocena stanu obecnego, propozycje nowych rozwiązań (Statistics on Immigration in Poland. Prerequisites of Normalcy, Evaluation of the Present Situation, Proposals for New Solutions)*, Working Papers, Serie Migracyjne, no 2, ISS, Warszawa 1997; M. Okólski, *Recent Trends in International Migration – Poland 1997-2001*, Working Papers, Serie Migracyjne, no 16, 19, 28, 32, 39, 43, ISS, Warszawa 1997-2001; M. Okólski, *Poland's Migration: Growing Diversity of Flows and People*, Working Papers, Serie Migracyjne, no 29, ISS, Warszawa 1999.

[73] K. Heffner, T. Sołdra-Gwiżdż, *Migracje powrotne na Górny Śląsk z socjologicznej perspektywy (Return Migrations to Upper Silesia from a Sociological Perspective)*, Working Papers, Serie Migracyjne, no 9, ISS, Warszawa 1997.K. Iglicka, E. Jaźwińska, E. Kępińska, P. Koryś, *Imigranci w Polsce w świetle badania*

-- emerging foreign labour market in Poland,[74]

-- national migration policy.[75]

Institutes of Geography and History, Polish Academy of Sciences. Department of Urban and Population Geography (www.igipz.pan.pl/miasto/home.htm) is located at the Institute of Geography and Spatial Organisation, carrying research on spatial structure of cities and its transformation, migration (including modelling and forecasting).[76] The Institute of History, in turn, organises conferences on foreign migrations in the historical perspective and publishes yearbooks in the series *Migrations and Society*.[77]

Institute of Sociology at the Jagiellonian University of Cracow (www-is.phils.uj.edu.pl/ang/index.html) conducts research projects on emigration from Poland and the sociological aspects of decisions to migrate as well as on the integration of Polish immigrants worldwide (Kubiak, Slany and Romaniszyn). Institute of American and Polish Diaspora Studies, (http://www.mzsa.uj.edu.pl/) continues the work of the research unit, headed by Prof. G. Babinski focusing on the Polish diaspora, ethnic groups and minorities on the Polish territory.

Institutes of Sociology and Geography at the Nicholas Copernicus University in Toruń (www.soc.uni.torun.pl/; www.geo.uni.torun.pl/) undertake studies on the legal status of aliens in Poland, presence of foreigners in Poland in view of the alienation and "alien" social groups, spatial distribution of immigrants in Poland.

Organisations providing assistance to foreigners

The **Office of the United Nations High Commissioner for Refugees** (UNHCR) (www.unhcr.pl) operates on the basis of an agreement with the Polish government, concluded upon Poland's ratification of the Geneva Convention on the Status of Refugees of 1951 on 27 September 1991. UNHCR was the main consultant in the work on the Aliens Act within the chapter relating to refugees and asylum, submitting legal comments, which were discussed in the parliamentary committee work. The Representative's Office supports a number of non-governmental initiatives (e.g. the Refugee Day, legal clinics) and monitors the implementation of the Geneva Convention by receiving an annual report from the President of the Office for Repatriation and Foreigners (URiC). Thanks to its special status, UNHCR holds regular meetings of non-governmental organisations, which allow the discussion of both operational and logistical matters as well as of a broader vision of national immigration policy.

---

sondażowego (Immigrants in Poland in the Light of an Opinion Survey), Working Papers, Serie Migracyjne, no 10, ISS, Warszawa 1997.

K. Iglicka, *Are They Fellow-Countrymen or Not? The Migration of Kazakhs of Polish Origin from Kazakhstan to Poland,* Working Papers, Serie Migracyjne, no 11, ISS, Warszawa 1997; M. Mrozowski, *Obraz imigranta na łamach prasy polskiej (The Image of the Immigrant as Created by the Polish Press)*, Working Papers, Serie Migracyjne (Migration Series), no 1, ISS, Warszawa 1997; A. Pawelec-Górny, *Postawy Polaków wobec cudzoziemców (Poles' Attitudes to Aliens)*, Working Papers, Serie Migracyjne, no 8, ISS, Warszawa 1997.

[74] K. Iglicka, *Ethnic Division on Emerging Foreign Labour Markets in Poland during the Transition Period*, Working Papers, Serie Migracyjne, no 35, ISS, Warszawa 2000.

[75] K. Głąbicka, M. Okólski, D. Stola, *Polityka migracyjna Polski (Poland's Migration Policy)*, Working Papers, Serie Migracyjne, no 18, ISS, Warszawa 1998.

[76] P. Korcelli (ed.), *Przemiany w zakresie migracji ludności jako konsekwencja przystąpienia Polski do Unii Europejskiej (Changes in Population Migration as a Consequence of Poland's Accession to the European Union),* PAN, KPZK, paper no. 184, Warszawa 1998; M. Kupiszewski, *Modelowanie dynamiki przemian ludności w warunkach wzrostu znaczenia migracji międzynarodowych (Modelling the Dynamics of Population Change Under the Conditions of Increased Significance of International Migrations),* Prace Geograficzne, vol. no. 181, IGiPZ PAN, Warszawa 2002.

[77] Ten volumes have been published so far in the series, edited by prof. Jan Zamojski, covering issues such as the emergence of diasporas, political migrations, history of migration in the twentieth century, migrant women.

International Organisation for Migration (IOM) (www.iom.pl). The regional IOM office entered into co-operation with the Polish government in mid-1990s. It has assisted the voluntary return of illegal migrants. IOM has periodically undertaken a review of candidate countries' progress in harmonisation of their legislation with the *acquis* in the field of Justice and Home Affairs and drafts migration-flow analyses in the region of Central Europe.[78] A local IOM office was opened in Warsaw in 2002. Its research section contributed to a comparative study of asylum and migration legislation in the candidate countries[79] and to a review of the migratory situation in Poland on the eve of accession.[80]

Helsinki Foundation for Human Rights (www.hfhrpol.waw.pl) Although the Foundation's main focus is human rights and firstly refugee rights, its activity has had a significant impact on the present state of Poland's legislation concerning the aliens' rights. The Foundation was invited to contribute to drafting the Aliens Act and the work by the Sejm sub-committees. The Sejm also asked it to prepare two lengthy commentaries on the Aliens Act. The Foundation experts draft appeals to NSA and to the Council on Refugees as part of the programme of legal assistance to foreigners. They hold not only the mandate of the chief legal partner of UNHCR, but they also issue expert opinions and reports on the legal issues indirectly related to the aliens' residence, such as family reunification, migrant workers' rights or personal data protection.

Caritas Poland (www.caritas.org.pl) The Caritas Bureau of National Coordinator for Migrants and Refugees in Lublin raises legal issues of access to asylum procedure as well as legal and practical questions of broad integration of various groups of foreigners in its publications. As a key institution that promotes a comprehensive integration of refugees, the Bureau points out the barriers to the recognised refugees' access to the labour market and self-employment. The organisation also runs seminars with Caritas Germany, whose agenda often encompasses wider aspects of the foreigners' position on the Polish labour market[81].

Polish Humanitarian Action (PAH) (www.pah.ngo.pl/) concentrates its efforts on material assistance to refugees and other persons in need. It has staged several successful media events, which sensitise the public to the existence of forced migration (e.g. convoys to Chechnya) and inspire tolerance for the refugees residing in Poland (Refugee Day organised with UNHCR). PAH issues periodical information materials for refugees, which clarify the legal procedures and provide basic integration advice, useful for other foreigners as well.

The **Polish Red Cross (PCK)** (www.pck.org.pl/) has provided day-to-day aid to foreigners as part of its statutory tasks since 1984. Aside from giving the material assistance, PCK represents foreigners in contacts with state organs, for instance throughout the procedure for asylum.

---

[78] Ed. Frank Laczko, *Migration in Central and Eastern Europe: 1999 Review*, Vienna 1999 (updated 2002).
[79] *Migration Acquis Update 2002,* IOM Vienna 2003.
[80] I. Korys, *Migration Trends In Selected Applicant Countries,* Vol. III: *Poland—Dilemmas of a Sending and Receiving Country*, IOM 2004. [http://www.iom.int//DOCUMENTS/PUBLICATION/EN/IOM_III_PL.pdf]
[81] Here are some topics of the conferences organised in association with Caritas Germany: *Assistance to foreigners and refugees in the context of European Union expansion* (Görlitz, May 2001, Berlin, December 2001); *Analysis of the political, social and economic implications of the Schengen border for the present and future EU border regions with a view to a common approach to migration policy.*